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**IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN
AT JAIPUR BENCH**

S.B. CRIMINAL MISC. PETITION NO.1270/05

Vimal Kumar **Versus** State

DATE OF ORDER :: 05/12/2007

HON'BLE MR. JUSTICE AJAY RASTOGI

Mr. S.N. Soorwal, for petitioner

Mr. Arun Sharma, Public Prosecutor for State

* * *

Instant petition has been filed against the order dated 23rd March, 2005 whereby application filed u/ss.70(2) & 71 Cr.P.C. for conversion of arrest warrant into bailable was rejected by learned trial Judge.

Petitioner is facing trial for offence u/ss.498A & 406 IPC. It appears that statement of accused was to be recorded on 6th January, 2004, but, he could not appear on account of which his bail bonds were forfeited and arrest warrant was issued. Thereafter, he filed application u/ss.70 (2) & 71 Cr.P.C. for conversion of arrest warrant into bailable which was dismissed by learned trial Judge.

From the order impugned, it appears that on last occasion i.e. 5th September, 2001, his bail bonds were forfeited on account of his non-appearance. But, on perusal of certified copy of ordersheet of 5th September, 2001, it appears that

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after his bail bonds were forfeited and trial Judge in order to summon him by arrest warrant, initiated proceedings u/s.446 Cr.P.C., thereafter, the accused-petitioner appeared and this fact has also been recorded by learned trial Judge in his order dated 5th September, 2001 itself and thereafter, the matter proceeded for recording defence evidence.

It is true that case was instituted against him way back on 28th October, 1998, but from the record, it appears that on 6th January, 2004, petitioner did not appear on account of which his bail bonds were forfeited and arrest warrant was issued to ensure his presence. The delay in trial itself is causing great hardship to the complainant and more than 3 and 1/2 years have passed by now, still his presence could not be ensured.

This court considers appropriate that if petitioner surrenders before competent court of jurisdiction on or before 17/12/07, his application for grant of bail be simultaneously considered in accordance with law.

With the above observations, this misc. petition stands disposed of.

[AJAY RASTOGI], J.